



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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September 18, 1997

CERTIFIED RETURN RECEIPT
P 074 976 602

Lon Thomas
American Stone and Building Inc.
4040 South 300 West
Murray, Utah 84107

Re: Notice of Non-Compliance, Cotton Thomas Quarry Mine, M/003/024, Box Elder County, Utah

Dear Mr. Thomas:

This letter is sent to notify you, that your mining operation, or portions thereof, is not in compliance with certain sections of the Utah Mined Land Reclamation Act 40-8-1 et seq and the Minerals Reclamation Program Rules R647-1 through R647-5.

Findings of Non-Compliance

Section 40-8-13(1)(a) of the Utah Mined Land Reclamation Act (the Act), and Rule R647-3-113 of the Minerals Rules requires an operator to file a Notice of Intention to Commence *Large Mining Operations*, and receive Division approval *before enlarging* (emphasis added) a small mining operation beyond five (5) acres of surface disturbance. Section 40-8-14(1) of the Act and Rule R647-4-113.1 requires an operator to provide acceptable reclamation surety to the Division after receiving Division approval of a large mining notice, but *prior to commencement* of such operations.

An inspection was conducted pursuant to Utah Code Annotated 40-8-1 et seq, at the Cotton Thomas Quarry on August 19, 1997 by Lynn Kunzler, of the Minerals Staff (inspection memo enclosed). During inspection of the project area, it was determined that the disturbed acreage associated with this site has exceeded the 5-acre limit for a small mining operation. A conservative estimate of approximately 25 acres of current mining-related disturbance was noted within the immediate and adjacent area of the small mine site (new roads and new quarrying areas).

By certified letter dated July 10, 1997, you were notified that it was the Division opinion that the surface disturbances associated with your Small Mining Notice for the Cotton Thomas Quarry had exceeded the five (5) acre threshold. You were given until August 11, 1997 to file a

large mining Notice of Intention (NOI). To date, you have not filed a large mining NOI or provided any formal response to our letter.

Your actions may also represent a violation of section 40-8-9(1)(a) of the Utah Mined Land Reclamation Act, which addresses a *willful and knowing* violation of the Act. A finding of willful and knowing violation can subject the operator to fines of up to \$10,000 for each violation. The Division will hold American Stone responsible for reclamation of all mining-related surface disturbances associated with the Cotton Thomas project area.

Location of Non-Compliance

The specific location of the non-compliance activity is in portions of Sections 21 and 28, T14N, R17W, SLBM, Box Elder County, Utah.

Mitigation Requirements

All mining operations associated with the Cotton Thomas project area must cease immediately. A complete and technically adequate Notice of Intention to conduct *large* mining operations must be filed and approved by this office before any further mining-related activity continues.

A Notice of Intention to Commence Large Mining Operations (application enclosed) must be completed and returned to this office within 30 calendar days of your receipt of this letter. Processing and formal Division approval of a large mining permit application typically takes a *minimum* of 6-9 months. If you wish to resume mining operations prior to the Division's approval of the large mining NOI, American Stone must submit an *interim* reclamation surety in the amount of \$50,000 (25 acres X \$2,000/acre). You must also supply a detailed topographic map clearly outlining a five (5) acre area within which you will conduct/confine your operations until the Division approves of the large mining permit application.

A possible alternative option to filing a large mining permit application would be to immediately reclaim all affected areas down to a total of five (5) or less acres. This action would effectively re-validate your existing small mining permit and allow mining activities to begin again. Because mining activities have already exceeded the 5 acre threshold for a small mining operation, an interim reclamation surety would still be required to cover the disturbed acreage exceeding 5 acres. Once the Division confirms that the required reclamation and revegetation have been successfully performed, the interim surety would be reduced or released.

Consequences of Continued Non-Compliance

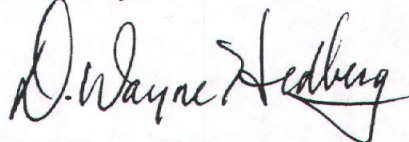
Failure to comply with these requirements within the time frame as set forth in this Notice, may result in the issuance of a *Notice of Agency Action*. An informal hearing before

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the Division Director, or a formal hearing before the Board of Oil, Gas and Mining may follow. The Board, after notice and hearing, may enter an Order requiring specific abatement/mitigation measures, reclamation, and/or (in the case of a willful and knowing violation) the assessment of civil penalties not to exceed \$10,000 dollars for each violation.

Please contact me (538-5286), or Lynn Kunzler (538-5310) of my staff, to discuss how you plan to resolve this non-compliance issue. Thank you for cooperation and immediate attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Wayne Hedberg". The signature is fluid and cursive, with a large, stylized "H" and "B".

D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program

jb
Enclosures: 8/19/97 insp memo, MR-LMO form
cc: Lowell Braxton, DOGM
Mary Ann Wright, DOGM
Dan Moquin, Assistant Attorney General
M003024.ncl